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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/567,715	09/29/2006	Goetz Braeuchle	10191/4423	4029
26646 7590 09/04/2008 KENYON & KENYON LLP ONE BROADWAY NEW YORK, NY 10004				
EXAMINER				
ALGAHAIM, HIFAL A				
ART UNIT		PAPER NUMBER		
3663				
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09/04/2008		PAPER		

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/567,715

Applicant(s)

BRAEUCHLE ET AL.

Examiner

HELAL A. ALGAHAIM

Art Unit

3663

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 07 February 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 8-14 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 8-14 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO/SF/ICE)
Paper No(s)/Mail Date 02/07/2006; 04/29/2006
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims **8-10 and 14** are rejected under 35 U.S.C. 102(b) as being anticipated by **Lohner et al (Patent Number: 6370471)**.

Regarding claim 8: Lohner et al discloses a driver assistance system for a motor vehicle, comprising:

an arrangement (**decision means, see abstract**) for providing at least one assistance function that is to be used only under a particular precondition.

an acquisition device (**video camera, see abstract**) for acquiring data concerning a locality in which the vehicle is traveling.

a blocking device (**automatic cruise control, see col. 2, line15**) for blocking the assistance function if the acquired data indicates that the precondition is not met.

Regarding claim 9: Lohner et al discloses the driver assistance system as recited in claim 8, wherein: the assistance function is a low speed following function that controls the vehicle in such a way that the vehicle follows another vehicle traveling in front at a suitable distance, and the assistance function is also capable of being used at speeds below 30 km/h if a local condition allows this (**see abstract and col. 3, lines 20-21**).

Regarding claim 10: Lohner et al discloses the driver assistance system as recited in claim 9, wherein: the assistance function brakes the vehicle automatically to a standstill if the other vehicle traveling in front comes to a stop (**see at least abstract**).

Regarding claim 14: Lohner et al discloses the driver assistance system as recited in claim 8, wherein the acquisition device includes a video sensor apparatus (**video camera, see abstract**) for recognizing a town entry sign and a town exit sign.

Claim Rejections - 35 USC § 103

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 11-13 are rejected under 35 U.S.C. 103(a) as being unpatentable over **Lohner et al (Patent Number: 6370471) in view of Yanagidaira et al (Pub. Number: 2003/0033082)**.

Regarding claim 11: Lohner et al discloses the driver assistance system as recited in claim 8, **but does not explicitly disclose** wherein the acquisition device includes a navigation system. **However, Yanagidaira et al discloses this limitation, see fig. 1. It would have been obvious to one of ordinary skill in the art at the time of the invention to incorporate the navigation system as taught by Yanagidaira et al in Lohner et al system to obtain a current position.**

Regarding claim 12: The combination of Lohner et al and Yanagidaira et al disclose driver assistance system as recited in claim 11, wherein: the navigation system includes an intelligent navigation system in which roadway characteristics are stored that indicate whether the precondition for the assistance function is met on a respective roadway (see Yanagidaira, fig. 2 and page1, paragraph 0010).

Regarding claim 13: Lohner et al discloses the driver assistance system as recited in claim 8, but does not explicitly disclose wherein the acquisition device includes a telematics receiving device. However, Yanagidaira et al discloses this limitation, see fig. 1, communication device. It would have been obvious to one of ordinary skill in the art at the time of the invention to incorporate the communication device as taught by Yanagidaira et al in Lohner et al system for receiving road information.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to HELAL A. ALGAHAIM whose telephone number is (571)270-5227. The examiner can normally be reached on Monday - Friday from 7:30 AM to 5:00PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jack W. Keith can be reached on 571-272-6878. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/H. A. A./
Examiner, Art Unit 3663

/Jack W. Keith/
Supervisory Patent Examiner, Art Unit 3663